IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 998 of 2005

Between:

B. Gopal Swamy S/o Late Sriramulu
R/o Ratna Sabhapathi Nagar, Siddavatam, Kadapa District

..... PETITIONER

AND

1 Sourthern Power Distribution Company of A.P Limited, rep.,

by Chairman and Managing Director,
Renugunta Road, Tirupathi.
2 The Divisional Electrical Engineer,

Assessments, APSPDCL, Tirupathi.
3 Assistant Divisional Engineer, APSPDCL, OCC/Vontimetta,

Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ order or direction particularly one in the nature of Mandamus declaring all the proceeding leading up to and including the proceedings of L.NO. ADE/OCC?VNT/F.TOE/D.No. 746/04 dated 13-10-2004 of the 3rd respondent as arbitrary illegal and by nullifying the same pass such other relief or reliefs as this court may deem fit just and proper in the circumstances of the case.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents: MR.M.SREERAMULU REDDY

The Court at the admission stage made the following :

ORDER:

The petitioner was issued an order of provisional assessment, dated 02.11.2004 indicating that the inspection conducted on the service connection of the petitioner revealed that there was pilferage of power valued at Rs.35,604/-. The petitioner was required to pay half of the said amount being Rs.17802/- to ensure continuance of power supply. Petitioner feels aggrieved by the same.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner was served with an order of provisional assessment and further steps are required to be taken in accordance with Section 126 of the Electricity Act, 2003. The Section does not provide for payment of any amount covered by the order of provisional assessment. It is only after an order of final assessment is passed that the actual liability of the same would arise. In W.A.Nos.452 and 477 of 2004, a Division Bench of this Court through its order, dated 11.03.2004 held that a consumer cannot be required to make any payment on the strength of an order of provisional assessment.

Following the same, the writ petition is allowed and it is directed that the power supply to the petitioner shall be continued/restored, as the case may be, without insisting on payment of any amount on the strength of the order of provisional assessment. He shall be liable to pay the amount only after an order of final assessment is passed. It is further directed that the continuance of power supply to the petitioner shall be subject to payment of the consumption charges by the

petitioner. There shall be no order as to costs.

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28.01.2005

Jsu

To

1 The Chairman and Managing Director, Sourthern Power

Distribution Company of A.P Limited,
Renugunta Road, Tirupathi.

2 The Divisional Electrical Engineer,

Assessments, APSPDCL, Tirupathi.

3 The Assistant Divisional Engineer, APSPDCL,

OCC/Vontimetta,

Kadapa District.

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